

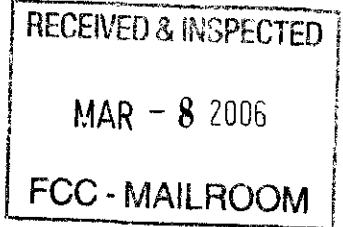


SPECTRUM COMMUNICATIONS

CABLING SERVICES, INC.

Sent via Facsimile and U.S. Postal Service

February 28, 2006



Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: **STATUS REQUEST** for filed appeal to the FCC dated November 21, 2004 for
Rosemead Elementary Unified School District
Request for Review: CC Docket No. 02-6
Appeal of the Universal Service Administrative Company (USAC) Decision
Applicant: Rosemead Elementary Unified School District
Entity #: 143604

To Whom It May Concern:

I write this letter to request a status of our appeal filed with the FCC dated November 21, 2004, regarding the Universal Service Administrative Company ('USAC') decision for the applicant Rosemead Elementary Unified School District ('REUSD').

On November 21, 2004, Spectrum Communications properly filed to the FCC, an appeal of the USAC denial of funding for Rosemead E-Rate funding year 2003-2004. (Attachments)

As of today, February 28, 2006, 15 months later, neither Spectrum Communications nor REUSD has received any notification from the FCC regarding the appeal.

Our appeal is simple; the USAC has somehow come to the conclusion that my company, Spectrum Communications, was improperly involved in the competitive bidding process. However, USAC has not provided any information or evidence of how Spectrum Communications was involved in any process of REUSD's application for E-Rate funding.

This general statement of Spectrum Communications improper involvement has lead to many of our clients E-Rate applications denials. This is unfair to both Spectrum Communications and our school districts applicants.

As I have stated in several appeals to both USAC and the FCC, my company has not been involved with the filing of any forms, the selection and/or evaluation process for E-Rate applications undertaken by REUSD or any other applicant.

CC of USAC re'd
LIRABODE

226 NORTH LINCOLN AVENUE • CORONA, CA 92882
(909) 371-0549 • (800) 319-8711 • FAX (909) 273-3114

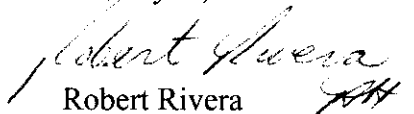
ST. LIC. 713768

I ask for the FCC to immediately review our appeal of November 21, 2004. It is our hope that the FCC will review our appeal and as a result grant our appeal, and remand the application back to USAC for further review and funding.

Can you please provide a status as to this appeal? The application for E-Rate funding made by REUSD is over 3 years old.

If you have any questions or require further information, please contact me either by mail or by telephone at (951) 371-0549.

Thank you,


Robert Rivera
President/CEO
Spectrum Communications

RR:ah

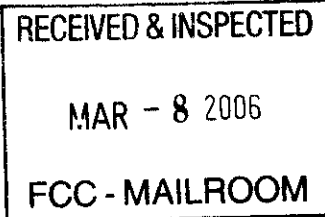
Attachments

Attachments

Sent via Facsimile, Electronically (ECFS) and U.S Mail

November 21, 2004

Federal Communications Commission
Office of the Secretary
445 – 12th Street, SW
Washington, DC 20554



RE: REQUEST FOR REVIEW; CC DOCKET NO. 02-6
Appeal of the Universal Service Administrative Company (USAC) Decision
Applicant: Rosemead Elementary Unified School District
Entity #: 143604
Form 470: 308530000424460 (Attachment 1)
Form 471: 366569 (Attachment 2)
FRN's #: 996581, 996585, 996593

To Whom It May Concern:

This letter shall serve as an appeal and request for review to the Schools and Libraries Division's Decision on Appeal – Funding Year 2003-2004, dated September 24, 2004 (Attachment 3) in reference to Rosemead Elementary School District's ('Rosemead') Form 471 application for E-Rate funding year 2003.

This decision made by the Administrator ('SLD') is a result of an appeal made to the SLD by Spectrum Communications dated June 21, 2004 (Attachment 4), in response to the SLD's Funding Commitment Decision Letter ('FCDL') dated May 18, 2004, which denied funding because of "*similarities in Forms 470*" wherein the SLD had erroneously and inexplicably stated that Spectrum Communications was "*improperly involved in the competitive bidding process*". (Attachment 5)

Both Spectrum Communications and Rosemead respectfully ask for reconsideration of the denial and the immediate funding of Rosemead's E-Rate Program Year 6 Internal Connections application for funding year 2003-2004.

We have compared Rosemead's Form 470 application to that of all of those applicants who have designated Spectrum Communications on their Form 471's as their selected service provider, as well as the filed Form 470's of many applicants who did not select Spectrum Communications as their service provider (refer to Appendixes A and B).

A comparative analysis does; in fact, show similarities in the Form 470's specifically found in Block 2, sub-section 12 (refer to Appendix B). The FCC intended this area to be used by the applicant to indicate any restrictions or regulations imposed by the applicant upon the vendor. For example, the applicant may require that the service provider be properly licensed, or have a specific amount of proven experience working with school districts, etc.

Rosemead's Form 470 application like that of many filed Form 470 applications which we reviewed contained simple language similar in description. There are two main reasons for these similarities;

Firstly, the California Department of Education ('CDE'), like that of many other states, has a division dedicated to providing education and resources to school districts who desire to participate in the E-Rate program. Additionally, the CDE delegates authority to the County Offices of Education throughout the state to approve the school districts Technology Plan; a requirement set forth by the FCC to participate in the E-Rate program. (Attachment 6)

In CDE has created the VET (Voluntary E-Rate Training) program. The CDE holds workshops (Attachment 7) throughout the State. The objectives of the workshops are found in the training handout (Attachment 8, page 2) and as follows:

- a. To provide participants with information about preparing to file E-Rate Form 470;
- b. To help participants understand requirements for procurement of products and services;
- c. To demonstrate the online Form 470 and help participants understand the process for completing the Form 470; and
- d. To provide information about preparation in preparing to file the Form 470.

The CDE provides handouts at these workshops, and this information can also be found on-line on the CDE's website. This handout contains 36 pages which show actual screen shots of the SLD's on-line Form 470. It also provides in specific detail the questions asked on the Form 470 and provides examples of how school districts should answer each of the questions.

Specifically in reference to Block 2, sub-section 12, page 22 of the CDE handout states:

"You may want to use this Section to:

- A. Describe local procurement requirements and your purchasing office requirements to help your vendor respond to the request (e.g., CMAS vendors, Web location, etc.)*
- B. Refer to contract code*
- C. Detail any local rules or state Education Code."*

Rosemead's filed Form 470 Block 2, sub-section 12, states:

"For Internal Connection the following minimum guidelines must be met prior to submitting quotations: 1. Must be CMAS authorized contractor. 2. Must provide a copy of valid CA. low voltage contractor's license C-7 and/or C-10 contractor's license. 3. Must provide certified payroll as to evidence of payment of prevailing wages. 4. All staff working in the district must be Meagan's law compliant (DOJ) 5. Must be bondable and insurable in CA. 6. Must provide drawings and design documents upon request. 7. Must provide 3 reference of similar work at K-12 institutions. 8. Must have a current ERATE spin # and must provide District a copy of the ERATE certification page. 9. Upon award must be prepared to work after the instructional day hours with no additional charge"

Clearly, the requirements imposed, and the language used here, are in direct response to the information provided as an example contained within the CDE handout. Contrary to the allegation of the SLD, this language and its similarity to that used in other Form 470s by other applicants are not the result of any involvement, improper or otherwise, by Spectrum Communications in the competitive bidding process. Rosemead is within its authority to make such a request of bidders. Additionally, Rosemead, as well as that of other school districts who used exact or similar language, has attempted to protect the E-Rate funds it receives against waste, fraud, and abuse.

Secondly, many school districts share information with each other. Often time's school districts will review the Form 470s filed by other school districts posted to the SLD's website. They may do this because they wish to save time, or review and copy certain information of other school districts which have been successful in receiving E-Rate funding in prior years.

There are no rules which prohibit school districts from sharing information with each other. They may actually copy each other's E-Rate filings to the extent portions of these filings are also applicable to their individual circumstances. Certainly, the CDE and the SLD have promoted cross-training and sharing of information. Without such dialog many school districts would not, or could not, participate in the E-Rate program because of a lack of resources required to develop a successful filing.

Conversely, the applicant may employ a consultant who, in the interest of time may use the same style of writing, the same language, and/or specify the same requirements in multiple Form 470s.

We agree that some of the applicants, who have selected Spectrum Communications as their service provider, have Form 470's which are similar to each other. There are however, other filed Form 470's of applicants who have not selected Spectrum Communications as their service provider which are similar to those Form 470's as well. These similarities should not be construed as involvement by Spectrum Communications in the competitive bidding process of those applications where Spectrum Communications was the selected service provider.

While we maintain our position of neutrality related to Rosemead's and other school district Form 470 filings, we believe that the discussion of applicable rules, regulations and/or laws which affect either the school district or the service provider must be allowed. As this type of information is not harmful, does not restrict the competitive bidding process, and helps to ensure that the applicant(s) and service provider(s) complies with FCC, SLD, State, and local requirements. This opinion seems to be shared by SLD because the SLD provides constant service provider training with the intent of disseminating information to the applicant regarding compliance. Also, the service provider has a substantial interest in ensuring compliance with all rules and laws, because if the applicant should fail to comply with any rule or law the SLD and/or the FCC may seek Commitment Adjustments ('COMAD') from the service provider.

Additionally, many of those Form 470's in which the applicant has selected Spectrum Communications on their Form 471's are located within Riverside County and are part of the same County Office of Education; Riverside County Office of Education ('RCOE'). This is significant because RCOE hosts quarterly meetings for the Information Technology coordinators of each School District within its jurisdiction, and in these meetings provides information related to the E-Rate program, and allows the exchange of information by those persons responsible for the filing of all of the E-Rate Forms.

As we have stated in several appeals which at the time of this writing are still pending either SLD or FCC review, I can attest to the fact that neither I nor any representative from Spectrum Communications had any involvement with the selection and or evaluation process for E-Rate applications undertaken by Rosemead or any other applicant. Further, we have not asked nor coerced any applicant to detail specific requirements contained in its Form 470 filing.

Spectrum Communications understands and supports the need for the FCC and the SLD to ensure that service providers are not improperly involved in the competitive bidding process. It is abundantly clear that the similarities among the Form 470s filed by those applicants who selected Spectrum Communications as their service provider are not the result of any improper involvement in the competitive bidding process by Spectrum Communications. Instead the applicants were simply following guidelines provided to them by the CDE, the SLD, and other school districts.

This mistake by the SLD has led to the denial of needed E-Rate funds to Rosemead, is unfair and has had a dramatic adverse impact on the students of Rosemead who suffer for no reason. I therefore humbly request the FCC to immediately grant this appeal and order the SLD to issue a revised Funding Commitment Decision Letter ('FCDL') to Rosemead Elementary School District.

The balance of this appeal as well as its attachments, provide further details to substantiate our position. It provides extensive detail regarding the Form 470 process and its subsequent requirements.

Respectfully Submitted,

Robert Rivera
President
Spectrum Communications

APPENDIX A

The following is intended to provide a detailed breakdown of the Form 470.

Specifically, the Administrator's Decision states its reason for denial; (page 2, Attachment 3)

'Upon through review of your appeal, it is determined that Rosemead School District's Form 470 displays striking similarities with the Form 470 of other applicants who selected Spectrum Communications as the service provider. Such similarities indicate that the vendor was improperly involved in the competitive bidding process, which is a competitive bidding violation. On appeal, you fail to show that the SLD erred in its initial determination. Consequently, your appeal is denied.'

Both Spectrum Communications and Rosemead are unclear as to how or why the SLD believes that Spectrum Communications was improperly involved with the competitive bidding process. We have asked the SLD to specifically identify which similarities are the basis for its conclusion that improper involvement occurred. We have also asked the SLD to explain how those specific similarities inescapably lead to the conclusion that improper involvement in the competitive bidding process occurred. To date, the SLD refused to answer either of these questions or to provide any other information that would add clarity to this matter.

Rosemead properly posted to the SLD website its Form 470 on November 1, 2002. The Form 470 is required to be used by all applicants who desire to participate in the E-Rate program.

The Form 470 contains 5 'Blocks', with each Block containing sub-sections of questions related to the Block description as follows:

Block 1: applicant Address and Identifications

- In this block the applicant states their contact information (i.e. name, address, phone number, type of applicant, email address)

Block 2: Summary Description of Needs or Services Required

- In this block the applicant chooses the type of service(s) it desires, Telecommunications Services, Internet Access, and/or Internal Connections. This block also allows the applicant to specify desired quantities of the products or services it requires, if there is an RFP, and if there are any restrictions or regulations imposed upon the service providers.

Block 3: Technology Assessment

- This block is to ensure that the applicant has sufficient resources to utilize the E-Rate funding. For example, Staff development or sufficient quantity of computers, etc.

APPENDIX A (page 2)

Block 4: Recipients of Service

- In this block the applicant certifies that the request of E-Rate funding is allocated to eligible entities and that they will receive the services described in the Form 470 application.

Block 5: Certification and Signature

- In this block the applicant states that it will comply with the rules related to the E-Rate program and that the applicant is authorized to make such a request. This block also contains the required signature of the applicant.

Blocks 1 and 4 are specific to the applicant and no other properly filed Form 470 will or can contain the same information except by the same applicant. An erroneous answer to any of the questions contained in these blocks will result in the Form 470 being denied because it was improperly filed.

Blocks 3 and 5 request information that is typically common among all applicants.

It is Block 2, sub-sections 10, 11, 12 and 13 which are specifically related to Internal Connections funding requests. And the subsequent area of similarities raised by the SLD.

Section 10:

Section 10 is a Yes or No response to the question regarding the existence of an RFP (Request For Proposal). In the case of Spectrum Communications' applicants many of them answer this question differently. Almost half answered this question in the affirmative, indicating that they indeed had an RFP.

In the event that the applicant did not have an RFP and having indicated 'NO' in section 10, the applicant is required to list the Internal Connections Services that they seek and must specify each service and/or function. Every applicant who selected Spectrum Communications answered or 'populated' these categories of services or functions differently due to the varying needs of the sites.

There are no similarities in Section 10.

Section 11:

Section 11 is an optional request and simply indicates a technical contact for the Form 470 request. This may be different than the contact person listed in Block 1 of the Form 470. Unless the applicant was using a consultant or was a member of a consortium, this information would never be the same. And in the case of Spectrum Communications' applicants, none were similar.

There are no similarities in Section 11.

APPENDIX A (page 3)

Section 12:

Section 12 allows the applicant to specify any restrictions or regulations imposed by the applicant on the service provider. Many applicants utilize this area to indicate their requirements of vendors, such as the need to have previous experience, hold a valid contractors license, and ensure that certain local and State laws are complied with.

In almost every application wherein Spectrum Communications was the selected vendor the applicant indicated certain requirements in Section 12. In many cases these requirements were specified in almost exact detail. As indicated in the body of our appeal the reasons for similarities are valid and in no way are indicative of service provider involvement in the competitive bidding process. Many school districts received information on how to file their Form 470 from the California Department of Education ('CDE'), many school districts share information with each other, and some school districts review filed Form 470's of other previously funded school districts.

There are similarities in Section 12. However, to the extent similarities do, in fact, exist among Form 470s that list Spectrum Communications as the service provider, those similarities (1) are the result of similar training conducted by the California Department of Education ('CDE') and other appropriate entities, (2) pertain to information that would not, in any way, provide an unfair advantage to any service provider, (3) do not pertain to an applicant's confidential or proprietary information which, in turn, could suggest an improper relationship between the applicant and the service provider, and (4) do pertain to information that serves to actually protect E-Rate funds from waste, fraud, and abuse. These school districts should not be penalized for providing information which is either required by their local and State laws, or is crucial to protecting E-Rate funding from waste, fraud, abuse.

Section 13:

Section 13 is optional and specifies information if a school district is intending to enter into a multi-year contract or a contract featuring an option for voluntary extensions. Due to the nature of Internal Connections deployment it is uncommon for applicants to enter into multi-year contracts. And this section is normally left blank by most every applicant.

Every Form 470 application wherein Spectrum Communications was the selected vendor had no information indicated in this section.

There are no similarities in Section 13.

APPENDIX B

The following is the language found on the filed Form 470s Block 2, sub-section 12 of several school districts. (Attachment 9)

The following paragraphs in parenthesis appear exactly as listed on the Form 470; there have been no corrections to misspellings or improper phrasing.

The following referenced Form 470s are can be found in Attachments 9.

Form 470s with Spectrum Communications indicated on the Form 471 as the selected service provider:

Rosemead Elementary Unified School District

“For Internal Connection the following minimum guidelines must be met prior to submitting quotations: 1. Must be CMAS authorized contractor. 2. Must provide a copy of valid CA. low voltage contractor’s license C-7 and/or C-10 contractor’s license. 3. Must provide certified payroll as to evidence of payment of prevailing wages. 4. All staff working in the district must be Meagan’s law compliant (DOJ) 5. Must be bondable and insurable in CA. 6. Must provide drawings and design documents upon request. 7. Must provide 3 reference of similar work at K-12 institutions. 8. Must have a current ERATE spin # and must provide District a copy of the ERATE certification page. 9. Upon award must be prepared to work after the instructional day hours with no additional charge”

Banning Unified School District

“For Internal connection projects the following minimum criteria apply: 1. Must possess a valid CMAS contract for specific products and services. See California Public Contract Code 10299(b), or be able to supply products and services from a piggyback public award. 2. Must possess a valid California contractor’s license specific to work performed. See California Business and Professions Code 7028.3. Contractors must pay prevailing wages and supply evidence of payment (certified payroll records upon request). See California Labor Code Section 1771 and 1776. 4. Contractors must provide proof that staff that will work at school campuses have been fingerprinted and have passed a criminal background check. See California Education Code Section 45125.1 5. Contractor must provide Payment and Performance Bond. See California Code 3247. 6. Contractor must supply a minimum of three references for projects of similar size and scope preferably within the K12 environments.”

APPENDIX B (page 2)

Form 470s that DO NOT indicate Spectrum Communications on the Form 471 as the selected service provider:

Garvey Elementary School District

“The District requires... 1. CMAS authorized contractor. 2. Must provide valid California low voltage contractors license. 4. Certified Payroll must be provided 5. Must be bondable and Insurable in the State of Calif. 6. Must do Network Design (includes drawings).”

Desert Sands Unified School District

“For internal connections the following minimum guidelines must be met: 1) CMAS authorize contractor; 2) Must provide evidence of valid California low voltage contractor’s license; 3) Must provide evidence of Megan’s Law compliance for all staff working at the district; 4) Must be bondable and insurable”

Hemet Unified School District

“1. CMAS authorized – see CA public contract code section 10299(b) 2. Must hold a valid California low voltage (C7) license ? See CA business and profession code section 7028. 3. Hold a general contractors license. 4. Be able to provide certified payroll and payment of prevailing wage/or labor compliance ? See CA labor codes sections 1771 & 1776. 5. Bondable and insurable in CA ? See CA civil code section 3247. 6. Must provide proof that all staff working on school campuses has been finger printed and passed a criminal background check by the Department of Justice ? See CA education code section 45125.1 7. Must provide three references of similar projects of size and scope, preferable K-12 education experience. 8. Provide a Molex 25 year warranty on end-to-end cabling including patch panels and jacks. 9. Must provide a valid SPIN number. 10. Must provide As-built Drawings (Paper and Electronic) in Auto-cad format. 11. Must be Molex Certificated. 12. Must adhere to District cabling specifications (will be provided upon request). 13. All proposals must include line item component pricing; associated labor cost all applicable sales tax.”

Los Angeles Unified School District

“For Internal Connections, the District will be utilizing the California Multiple Awards Schedule (CMAS). Respondents must have the appropriate CMAS contracts in place for all equipment and services relating to each of the Request for Information for which the vendor submits a response.”

APPENDIX B (page 3)

Form 470s that DO NOT indicate Spectrum Communications on the Form 471 as the selected service provider:

Bellflower Unified School District

“Internal Connections vendors must be California Multiple Awards Schedule approved vendors. Telecomm vendors should be Cal-Net approved vendors, internet access vendors should comply with either or both of the above. Vendors must have k-12 school district experience as well as E-Rate experience are preferred vendors.”

Val Verde Unified School District

“Internal connections are covered under CMAS contract”